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Via ECF filing

Hon. A. Kathleen Tomlinson
United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722-9014

Re: *Castillo et al v. Perfume Worldwide et al.*
17- CV - 02972(JS)(AKT)

Dear Judge Tomlinson:

We are counsel for defendants in this FLSA case. We write this letter to respond promptly to the letter application of plaintiff's counsel seeking to strike defenses absent a *complete waiver* of the attorney client privilege, and a waiver which covers a *company which is not even a party to this action*. There is no case support for such a draconian request. Voluntarily, even without formal discovery request, we shared with counsel the email written advice of employment law counsel which was relied upon in adopting and implementing the precise policy (20-minute break) that is the subject of this lawsuit. Surely, there has been a waiver as to that issue, and consistent with the case law cited in plaintiff's letter of today, we so indicated to both plaintiffs' counsel and to the third party former counsel who has been subpoenaed. We did not object, move to quash nor join in the motion to quash. We did not ask that the deposition not take place or that questions regarding the advice at issue not be answered. Accordingly, the out-of-left field, legally baseless letter demand of today demanding that the subject affirmative defense be stricken is most unfair and should be denied/

Respectfully submitted,
Jacques Catafago
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